

Protection Order Committee
Judicial Conference of Indiana

Minutes

January 27, 2017

The Protection Order Committee met at the Indiana Judicial Center on Friday, January 27, 2017 from 12:00 noon – 3:30 p.m.

1. Members present. Andrew K. Antrim, David L. Chidester, William A. Dawkins, Jennifer Lynne DeGroote, Sara A. Dungan, Thomas P. Hallett, Teresa K. Hollandsworth, Justin H. Hunter, Laura Martin, Sean M. Persin and Christopher M. Goff, Chair.
2. Staff present. Jeffrey Bercovitz, Tom Jones and Ruth Reichard provided the committee with staff assistance.
3. Minutes approved. The minutes for the meeting on August 26, 2016 were approved.
4. PO-0108. Committee members approved by consensus the amendment to PO-0108, which indicates the address of the petitioner is public.
5. Chapters 3, 4 and 5. Committee members reviewed revisions by Ruth Reichard to chapters 3, 4 and 5 of the Protection Order Deskbook. They approved the suggested revisions, including adding language about the use of initials in various case types for juveniles. They agreed to continue review of chapters 6 and 7 at the next meeting.
6. E-filing update. Ruth Reichard updated the committee on the work taking place to permit the safe and effective electronic filing of protection orders through the Protection Order Registry.
7. Notice of denial of protection order petitions. Committee members discussed notice given to respondents if a court denies issuance of an *ex parte* protection order when a petition is filed requesting one. The majority of counties represented on the committee do not notify respondents if the petition for an *ex parte* order is denied. Committee members agreed by consensus the respondent should not be notified. Mag. Hallett decided to research when in the filing process a person becomes a party in a civil lawsuit. Ruth Reichard agreed to draft language for a possible rule amendment and determine if Odyssey sent notice of the dismissal automatically. Members of the committee will continue review at their next meeting.
8. Recent legislation. Committee members reviewed Senate Bills 314, inclusion of animals in protection orders; SB 323, removal of name for cell phone plan; HB 1071, protected person carrying a handgun; and HB 1534, surrender of firearms. Judge Persin agreed to prepare forms in anticipation of passage of SB 314.

9. Other.
 - a. Committee members discussed a requirement in one county of the petitioner coming to the Clerk's office with identification in order to dismiss a protection order even if represented by an attorney. Committee members did not require the petitioner to dismiss in person if their attorney had filed an appearance in the case.
 - b. Members of the committee agreed to invite the new person administering the Indiana Attorney General's address confidentiality program to meet with the committee.
 - c. Committee members agreed to continue the chapter review, review animal protection order language and discuss questions from LaJuan Epperson about the protection order registry and electronic filing.
10. Next meeting dates. Members of the committee agreed to meet again on Friday, February 24, March 24, 2017, June 23, 2017, and August 25, 2017 from 12:00 Noon – 3:30 p.m. at the Indiana Office of Court Services.

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law

Protection Order Committee
Judicial Conference of Indiana

Minutes
February 24, 2017

The Protection Order Committee met at the Indiana Judicial Center on Friday, February 24, 2017 from 12:00 noon – 3:30 p.m.

1. Members present. Andrew K. Antrim, David L. Chidester, William A. Dawkins, Jennifer Lynne DeGroote, Sara A. Dungan, Thomas P. Hallett, Teresa K. Hollandsworth, Justin H. Hunter, Laura Martin, Sean M. Persin, Debbie Walker and Christopher M. Goff, Chair.
2. Staff present. Jeffrey Bercovitz, Mary DePrez, LaJuan Epperson, Tom Jones, Ruth Reichard and Jeff Wiese provided the committee with staff assistance.
3. Minutes approved. The minutes for the meeting on January 27, 2017 were approved.
4. Protection Orders: animals. Judge Persin discussed policy issues concerning pending legislation (SB 314) which would include animals in protection orders.
 - a. Committee members agreed by consensus the statute treats animals as personal property therefor, if an *ex parte* protection order includes animals, this order must be set for a hearing within thirty days.
 - b. The statute indicates the court may award exclusive possession of the animal to one party. The Protection Order Deskbook may note the award of the animal lasts only during the protection order.
 - c. Judge Persin noted the statute is silent on how much evidence is needed to grant relief.
 - d. The petition and the order should allow for the possibility of at least 3 animals subject to the order.
 - e. Judge Persin agreed to revise forms in anticipation of the passage of this legislation.
5. Recent legislation.
 - a. Members of the committee reviewed Senate Bill 169, which includes language on expungement of protection orders which are denied. They agreed by consensus expungement should be granted in limited circumstances. The committee expressed concern that attaching a protection order to the petition for expungement may violate federal law. They noted the use of an XP case type might open protection order records, which should be closed under federal law. They discussed how a filing fee for expungement might be a problem when there is no fee to file the underlying protection order case.
 - b. Judge Chidester moved the committee prepare a letter outlining these and other concerns about the expungement procedures in SB 169 and proposed solutions and forms for expungement for Judge Goff, Chair use at the Board of Directors meeting next week.

Magistrate Dawkins seconded the motion. The motion was passed unanimously. The committee also recognized the need for a procedure for expungement of protection orders which are denied. Expungement procedures should be incorporated in the Protection Order case type, not a separate cause of action. Judge Goff said the danger of unintended consequences with federal and state law is high.

c. Committee members reviewed Senate Bill 323, which would permit a court to order removal of a petitioner in a protection order case from a cell phone plan. Members of the committee discussed language for use in a petition and a protection order to permit a court to give an order of this nature. Judge Persin agreed to look at language to revise forms in this area.

d. Members of the committee discussed House Bill 1071, which would permit a person who filed a protection order to get a handgun without a license for up to 60 days after a protection order is issued.

6. Party to civil lawsuit. The committee discussed whether or not to give notice to respondents if a court denies issuance an *ex parte* protection order. Mag. Hallett reported a person becomes a party in a civil lawsuit when they have been served with summons, joins as a party, or is subjected to the power of the court. See **State ex rel. Travelers Ins. Co. v. Madison Superior Court, 354 N.E.2d 188** (Ind. 1976). Judge Antrim agreed to review the deskbook to see where to note courts should not send out notices of denial or dismissals of protection orders to respondents if they were not served, and therefore not a party. Mag. DeGroote agreed to forward information to me for the committee about modifying Odyssey to prevent this notice from being distributed to the respondent.
7. E-filing update. Ruth Reichard gave a report on the work taking place to permit the electronic filing of protection order petitions through the Protection Order Registry. She stated there would be a hotline available 24 hours a day to answer questions by petitioners. Mary DePrez reported the e-filing committee and the Steering committee will be informed of the new procedures for e-filing protection order petitions soon.
8. Next meeting dates. Members of the committee agreed to meet again on Friday, March 24, 2017, June 23, 2017, August 25, 2017 and October 27, 2017 from 12:00 Noon – 3:30 p.m. at the Indiana Office of Court Services.

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law

Protection Order Committee
Judicial Conference of Indiana

Minutes
March 24, 2017

The Protection Order Committee met at the Indiana Judicial Center on Friday, March 24, 2017 from 12:00 noon – 3:30 p.m.

1. Members present. Andrew K. Antrim, William A. Dawkins, Jr., Jennifer Lynne DeGroote, Sara A. Dungan, Justin H. Hunter, Laura Martin, Sean M. Persin, Debbie Walker and Christopher M. Goff, Chair.
2. Staff present. Jeffrey Bercovitz, LaJuan Epperson, Tom Jones, and Ruth Reichard provided the committee with staff assistance.
3. Minutes approved. The minutes for the meeting on February 24, 2017 were approved.
4. Guests. Stephen Harper, Associate General Counsel; Emily Springston, Chief Student Welfare and Title IX Officer, both from Indiana University; and Brian Tomlinson, Assistant Dean of Students and Director Deputy Title IX Coordinator, Indiana University-Purdue University Indianapolis, attended the meeting.
5. Presentation by Stephen Harper.
 - a. Stephen Harper gave an overview of Indiana University's response to domestic violence, discussing the investigation of the incident and the hearing conducted by a panel when this occurs. He stated in some cases, the students have protection orders. This makes hearings more difficult since they prohibit direct or indirect contact. In addition, some protection orders prohibit a respondent from "school," which could be interpreted broadly. He distributed suggested language for the committee's use in protection orders, which would permit contact for hearing purposes. Brian Tomlinson reported his office gathers the facts of each case. Emily Springston said this is a growing problem for colleges.
 - b. Members of the committee discussed the issue of the students involved with domestic violence who have a protection order at a university hearing, which would incur direct or indirect contact. They agreed to provide training during a judicial conference in early May to judicial officers about this issue, and Ruth Reichard agreed to include best practice language when issuing orders in these cases in the Protection Order Deskbook. The committee members agreed to consider later whether the petition for a protection order should be modified to alert the court there may be a problem in a school, work or church setting.
6. Questions from LaJuan Epperson.
 - a. Committee members agreed if a hearing is conducted, the protection order after a hearing, PO-0113 should be used, not PO-0133 (Order for temporary extension and pending hearing or subsequent disposition).

- b. If a Respondent is minor, should a space be given on the notice to appear parent/guardian name for service? Members of the committee agreed the minor should be served. The court could prepare a separate notice to appear to the parent/guardian.
- c. What relationship should be displayed on the protection order if a child of the petitioner is being protected from the ex-boyfriend of the mother of the child? The minor should be listed in the relationship box of the cover sheet as “minor of the party.”
- d. Law enforcement officers may not be enforcing protection orders when the DOB of the protected party is not in the protection order registry. May not be able to identify a petitioner with a common last name. No DOB should be required – it may prevent the petitioner from even seeking a protection order.
7. Protection Orders: animals and telephones. Judge Persin discussed policy issues concerning pending legislation (SB 323) which would (1) include animals in protection orders and (2) permit courts to order a provider to transfer to a petitioner the sole right to use a telephone number. Committee members agreed by consensus to use the proposed revisions in the Petition for a Protection Orders, Ex Parte Protection Order, and Protection Order. Judge Person agreed to review the Instruction and the Protection Order Deskbook for changes for the next meeting.
8. Chapter 2 revisions. Judge Antrim reviewed a modification to Chapter 2 about notice to a respondent about a protection order petition, which is denied. He reviewed language as a best practice recommending no notice of a denial of a protection order be sent to a respondent since he/she is not a party. He agreed to add additional language to the change for the next meeting.
9. Expungement of protection orders. Judge Goff reported after the last meeting, Judge Chidester drafted and excellent letter to Chief Justice Rush explaining the work the committee conducted about expungement of protection orders and potential problems with Senate Bill 169. He reported the issues involved to the Judicial Conference Board of Directors. Judge Goff stated the Judge’s Association agreed to contact the author of the bill and suggest a summer study committee study expungement and revised language.
10. Recent legislation. Ruth Reichard distributed a listing of domestic violence and protection order legislation and reviewed it with committee members.
11. Next meeting dates. Members of the committee agreed to meet again on Friday, June 23, 2017, August 25, 2017 and October 27, 2017 from 12:00 Noon – 3:30 p.m. at the Indiana Office of Court Services.

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law

Protection Order Committee
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Minutes

June 23, 2017

The Protection Order Committee met at the Indiana Judicial Center on Friday, June 23, 2017 from 12:00 noon – 3:30 p.m.

1. Members present. Andrew K. Antrim, Thomas P. Hallett, Sara A. Dungan, Justin H. Hunter, Laura Martin, Sean M. Persin, Debbie Walker and David L. Chidester, Chair pro tem.
2. Staff present. Jeffrey Bercovitz, LaJuan Epperson, Tom Jones, and Ruth Reichard provided the committee with staff assistance.
3. Minutes approved. The minutes for the meeting on March 24, 2017 were approved.
4. Revised Protection Order forms.
 - a. Members of the committee agreed by consensus to revisions to the following forms to implement SEA 323, concerning protection of animals and cell phones.

PO-0100	Petition for Protection Order
PO-0101	Petition for Protection Order (On Behalf of a Child)
PO-0102	Instructions for Petition for Order of Protection
PO-0103	Instructions for Petition for Order of Protection (On Behalf of a Child)
PO-0105	Ex Parte Order of Protection
PO-0113	Order of Protection
PO-0115	Petition to Modify an Order for Protection
 - b. Committee members:
 - (1) Agreed by consensus to remove PO-0123 Order for Protection (Short Form) from the website as obsolete.
 - (2) Agreed by consensus on revisions to PO - 0108 Petitioner's Request for Dismissal
 - (3) Discussed revisions to PO – 0108 – to make a new form PO-0134 for Dismissal of Protection Order on Behalf of Child and PO-0135 as the order with which it would correspond.
 - (4) Agreed to discuss at the next meeting revisions to NC - 0107 to permit a Court on own motion to dismiss No Contact Order and to revise the wording after the word "vacate."
5. Electronic filing of Protection Orders. Ruth Reichard gave a report on the electronic filing of protection order petitions through the Protection Order Registry. She stated the petitions for PO's, NCO's and ChPO's would have to go through one provider. DCS would have to use the same provider for filing of ChPO's as do others. DCS would have to use a petition approved by the Indiana Office of Court Services. A demonstration of electronic filing may be available for the October meeting.
6. Next meeting dates. Members of the committee agreed to meet again on Friday, August 25, 2017 and October 27, 2017 from 12:00 Noon – 3:30 p.m. at the Indiana Office of Court

Services. The committee agreed to look at revisions for Chapters 1 and 2 and discuss experiences and best practices concerning animal protection orders and cell phones.

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law

Protection Order Committee
Judicial Conference of Indiana

Minutes
August 25, 2017

The Protection Order Committee met at the Indiana Judicial Center on Friday, August 25, 2017 from 12:00 noon – 3:15 p.m.

1. Members present. David L. Chidester, William A. Dawkins, Jr., Jennifer Lynne DeGroote, Thomas P. Hallett, Sara A. Dungan, Justin H. Hunter, and Sean M. Persin, Chair.
2. Staff present. Jeffrey Bercovitz, LaJuan Epperson, Tom Jones, Mary DePrez and Ruth Reichard provided the committee with staff assistance.
3. Guest present. Dianna Mejia, Deputy General Counsel, Indiana Department of Child Services, was also present.
4. Minutes approved. The minutes for the meeting on June 23, 2017 were approved.
5. Service on committee. Judge Persin thanked Justice Goff, Magistrate Hallett and Judge Crawford for their service to the committee. In addition, he thanked Ruth Reichard for her staff assistance to the committee.
6. Experience with new statute. Committee members discussed their experiences with new provisions to protect animals and changing cell phone plans. Members discussed whether cell phone providers could implement orders under the new law. One member noted the Ex Parte Order seemed to roll into a third page for one additional line. LaJuan Epperson agreed to look at this concern and report back at the next meeting. She noted as of Aug. 21, 82 protection orders included pet provisions and 1 included the cell phone provision.
6. Child protection orders.
 - a. Jeff Bercovitz distributed draft amendment to Admin. Rule 8, which provides for a new case type (JQ) solely for Child Protection Orders.
 - b. Dianna Mejia, Deputy General Counsel, DCS, reviewed their petition for a child protection order with members of the committee. Members of the committee suggested various changes to the petition. Jeff Bercovitz reviewed the Child Protection Order, ChPO-0101, Order Issued After Notice and a Hearing and agreed to make changes. Ruth Reichard agreed to draft the revisions to the petition and order form and return the revised forms to Dianna Mejia and Jeff Bercovitz. Dianna Mejia agreed to return to next meeting of the committee to review the revised forms.
 - c. LaJuan Epperson explained the Child Protection Orders arising from JC cases will be filed in the new protection order electronic filing service provider (EFSP). No Contact Orders in juvenile cases will continue to be filed as they are now.
7. E-filing of Protection Orders.
 - a. LaJuan Epperson demonstrated the Electronic Filing Service Provider (EFSP) program for the filing of protection order petitions to members of the committee. She indicated

Workplace Violence Protection Orders and Child Protection Orders will also be filed through this EFSP.

b. Ruth Reichard reported she proposed Child Protection Orders would have to be given their own case type, JQ, due to federal confidentiality concerns. In addition, she has proposed an amendment to Trial Rule 86, which would require pleadings in PO, WVRO and ChPO cases to be served by the Clerk, Sheriff or court officials rather than by the parties as in other cases under TR 86. This proposal was due to concerns of potential violence between the parties in protection order cases. Committee members agreed by consensus with these changes.

8. Attorney access order. Committee members reviewed an Order based on recommendations of the Advisory Task Force on Remote Access to Privacy of Electronic Records. They agreed by consensus that attorney access to PO-0104, the Confidential Form, would violate Ind. Code § 5-2-9-7 and Administrative Rule 9. They discussed whether attorney access would permit staff in attorney's offices to access the Confidential Form. They were also separately very concerned about party access to the Confidential form.
9. Service of denial on Respondent. Ruth Reichard distributed a draft amendment to Trial Rule 72, which would provide a court would not provide information to the Respondent about a court denial of a petition for a protection order, a nonissuance of an Ex Parte Order, or not setting a petition for a hearing. They were alarmed about the potential for violence in some cases when the Respondent determined the Petitioner sought a protection order, even if it was not granted. The committee noted the Protection Order Deskbook already recommends against this practice and agreed by consensus to support a rule change which would prohibit it.
10. Next meeting dates. Members of the committee agreed to meet again on following Fridays: October 27, 2017; January 26, 2018; February 23, 2018; May 25, 2018; June 29, 2018; and August 24, 2018, all from 12:00 Noon – 3:30 p.m. at the Indiana Office of Court Services.

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law

Protection Order Committee
Judicial Conference of Indiana

Minutes
October 27, 2017

The Protection Order Committee met at the Indiana Judicial Center on Friday, October 27, 2017 from 12:00 noon – 3:45 p.m.

1. Members present. Marshelle D. Broadwell, Kathleen Tighe Coriden, William A. Dawkins, Jr., Alexis Vazquez Dedelow, Jennifer Lynne DeGroote, Sara A. Dungan, Holly M. Harvey, Justin H. Hunter, Laura Martin and Sean M. Persin, Chair.
2. Staff present. Jeffrey Bercovitz, LaJuan Epperson, Tom Jones, Mary DePrez and Ruth Reichard provided the committee with staff assistance.
3. Guest present. Lisa Manning, new Domestic Violence Resource Attorney, was also present.
4. Minutes approved. The minutes for the meeting on August 25, 2017 were approved.
5. Committee. Judge Persin welcomed Magistrate Marshelle D. Broadwell, Judge Kathleen Tighe Coriden, Referee Alexis Vazquez Dedelow, and Judge Holly M. Harvey as new members of the committee. The committee thanked Ruth Reichard for her staff assistance at her last committee meeting.
6. Protection Order Deskbook. Members of the committee revised Chapter 2 of the Deskbook to indicate domestic violence may occur if a denial of a protection order petition is served on the respondent. They confirmed there is no public access of the order. Members of the committee agreed to review the chapter for additional changes in this area.
7. Confidential Form. Committee members agreed by consensus to remove the fax number for use of notification of the Petitioner from the Confidential Form, PO-0104. There were few existing forms with this notification in the registry, and they had indicated alternate methods of contact. LaJuan Epperson reported email is now used for notification.
8. Protection Order Registry.
 - a. LaJuan Epperson reported questions from judges about the Order to Transfer, PO-0122. They indicated the language which indicated an Ex Parte Order of Protection which, when issued, may keep a father away from his child, seems to contradict language in the order itself which indicates the Ex Parte Order does not alter an underlying custody or parenting time order in another court. Members of the committee discussed whether more explanation is needed. Magistrate Broadwell and Magistrate DeGroote agreed to review this form to determine what changes, if any, are needed.
 - b. LaJuan Epperson explained the so-called long form Order for Protection, PO-0114 permits the court to indicate whether or not the Respondent is present, but not the Petitioner. Committee members agreed to amend the form to permit a court to indicate whether the Petitioner was present, in addition to the Respondent.
 - c. LaJuan Epperson stated a question was posed whether or not a WVRO issued after a Hearing could be extended by use of form PO-0117. Members of the committee agreed by

consensus the form could be used to extend a WVRO if it was issued for less than 3 years. They also agreed by consensus no changes should be made to the form. Ind. Code § 34-26-6-9 indicates how a renewal of the order must occur after a three-year period.

9. Attorney access to confidential form. Committee members agreed that attorney access to PO-0104, the Confidential Form, would violate Ind. Code § 5-2-9-7. They also agreed by consensus that a plan to mark PO-0104 for Clerk and Court access only would satisfy the statute and their concerns about anyone, other than those listed in the statute, would have access to the Confidential form.
10. E-filing protection orders.
 - a. LaJuan Epperson demonstrated the revised Electronic Filing Service Provider (EFSP) program for the filing of protection order petitions to members of the committee. She expected the EFSP to be available the first quarter this year. She indicated Workplace Violence Protection Orders and Child Protection Orders will also be filed through this EFSP.
 - b. Ruth Reichard reported she proposed Child Protection Orders would have to be given their own case type, JQ, in order to keep them separate from other JM case type filings. In addition, an amendment to Trial Rule 86 (Q), now open for comment, would require service of process pleadings in PO, WVRO and ChPO cases to be served by the Clerk, Sheriff or court officials rather than by the parties as in other cases under TR 86. This initial service by Clerk, Sheriff or court officials is due to concerns of potential violence between the parties in protection order cases. Continuances, requests for admissions and other documents may be served by the parties after the initial service.
11. Next meeting dates. Members of the committee agreed to meet again on following Fridays: January 26, 2018; February 23, 2018; May 25, 2018; June 29, 2018; August 24, 2018, and October 26, 2018, all from 12:00 Noon – 3:30 p.m. at the Indiana Office of Court Services. The Indiana Offices of Court Services are moving to 251 N. Illinois, Suite 800, North Tower in mid December.

Respectfully submitted,

Jeffrey Bercovitz, Director
Juvenile and Family Law